

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 11th day of January 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Donald Bollin-President</b>	<b>Jay Lambert</b>
	<b>JoAnne Arruda-Vice President</b>	<b>Cecil E. Leonard</b>
	<b>Hannibal Costa</b>	<b>Edward Roderick</b>
	<b>Louise Durfee</b>	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Leonard requested removal of item A-3b, correspondence from Portsmouth regarding pending tax sales and item A-3d, correspondence from Westerly regarding unfunded mandates.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA:**

**A-1-Approval of Minutes of Previous Meetings.**

- a. Approval of Minutes from December 14, 2009 Regular Council Meeting Councilor Arruda abstained - absent
- b. Approval of Executive Session Minutes from December 14, 2009 Councilor Arruda abstained - absent

**A-2-Receipt of Minutes from Various Board and Commissions:**

- |                                     |                            |
|-------------------------------------|----------------------------|
| a. Harbor Commission                | d. Conservation Commission |
| b. Wastewater Management Commission | e. Art's Council           |
| c. Historical Cemeteries Commission | f. Planning Board (3)      |

**A-3-Correspondence:**

- a. Received From City of Newport – Council Resolution Opposing Location of a Liquefied Natural Gas Facility in Mount Hope Bay
- c. Received From Senator Louis P. DiPalma Related to Attending the January 25<sup>th</sup> Council Meeting

**A-4-Approval of Tax Assessor Abatements**

**A-5-Request for Town Clerk to Advertise Bid for Postage Meter**

**A-6-Report From Town Clerk Relative to Records Preservation and On-Line Recording**

**A-7- Approval of Joint Petition to Place New Verizon New England and Narragansett Electric Joint Pole and Sidewalk Anchor Guy on Old Main Road – Response from DPW Director S. Berlucchi**

**Received From Town of Portsmouth – Council Resolution Opposing House Bill 5931/Senate Bill 606 Requiring Local Tax Collectors to Notify RI Housing & Mortgage Corp of Pending Tax Sales**

Councilor Leonard asked if the Administrator or Tax Collector had any opinions regarding legislation requiring local tax collectors notifying pending tax sales. Tax Collector Toni Lyn McGowan supported the resolution from the Town of Portsmouth as written.

Councilor Costa made a motion, seconded by Councilor Leonard to adopt the resolution as presented. Motion passed unanimously.

**Received From Westerly Town Council Resolution Relative to Relief From Unfunded Mandates**

Councilor Leonard, noting the long list of mandates, questioned whether the Council wanted to take any action regarding the mandates.

Councilor Costa made a motion, seconded by Councilor Roderick, the Solicitor and Town Administrator be given time to review, recommend and give an opinion to the Council about the mandates at next Council meeting.

**BUSINESS BROUGHT BEFORE THE COUNCIL**

**PUBLIC HEARINGS- ADVERTISED:**

**Town Administrator — Chapter 14 – Boats and Waterways Proposed Adoption of Amendment to Fee Resolution Raising Mooring Fees and Providing Discounts for Early Payment – Continued From December 14<sup>th</sup>**

Council President Bollin reopened the Public Hearing continued from December 14<sup>th</sup> regarding amending the fee resolution raising mooring fees. Town Administrator recommended the adoption of the increase in fees, which were approved by the Harbor Commission.

Councilor Bollin closed the public hearing after hearing no comments.

Councilor Durfee made a motion, seconded by Councilor Leonard to approve the mooring fees as presented and supported by Harbor Commission. Motion passed unanimously.

**Town Council – Chapter 38 – Environment – Earth Removal – Proposed Adoption of Amendment to Chapter 38, Article III, Earth Removal, Establish the Town Council as the License Board for Earth Removal Operations**

Council President Bollin opened the Public Hearing on the proposed adoption of amendments to Chapter 38, Article III, Earth Removal, establishing the Town Council as the Licensing Board for earth removal operations. Solicitor Teitz noted this was part of the ongoing effort to clarify and simplify business licenses with the Town Clerk and get all the licenses in line. The Building Official previously issued; appeals went to the Zoning Board. The license would still be referred to the Planning Board and Building Official for recommendation before the Council would accept. Language has been cleaned up relative to purpose and procedure. Would take effect upon passage. Councilor Durfee recalled quarrying was a prohibited use. Solicitor Teitz noted this applies to existing non-conforming licenses. Councilor Durfee noted there should be a cross reference under Division 2, License, Issuance. Language is misleading, looks like a new license could be obtained. Solicitor Teitz suggested adding a reference to Appendix A, the Zoning Ordinance, which makes earth removal a prohibited use.

There being no further comments from public, President Bollin closed the Public Hearing.

Councilor Durfee made a motion, seconded by Councilor Arruda to adopt as amended with the suggested change. Solicitor Teitz added, with prorated fees for the current year, effective upon passage. Motion passed unanimously. The adopted amendment was as follows:

ORDINANCE NO.2009-AN ORDINANCE IN AMENDMENT TO  
CHAPTER 38 OF THE ORDINANCES OF THE TOWN OF TIVERTON  
Environment.

WHEREAS, the Town of Tiverton desires to amend the existing earth removal ordinance and licensing provisions.

IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that Chapter 38 of the Ordinances of the Town of Tiverton be amended as follows:

**ARTICLE III. EARTH REMOVAL**

**DIVISION 1. GENERALLY**

**Sec. 38-56. Definitions.**

Earth removal means the extraction or removal of any sand, gravel, loam, topsoil, stone, mineral clay or shale, from deposits on any tract of land; excluding, however, extracting, removing, digging, mining or quarrying limestone, limerock or granite; and excluding operations of a sand and gravel plant currently in operation, and immediately surrounding 20 acres of industrial zoned land upon which such sand and gravel plant is located, and excluding also earth removal involved in the process of grading land:

- (1) For the construction of building for which a building permit has been issued;
- (2) For the construction of a roadway; or
- (3) For a subdivision in accordance with a plat plan approved by or in accord with an ordinance of any city or town or any duly authorized board of authority of such city or town.

**Sec. 38-57. Penalty for violation of article.**

- (a) Violators of any of the provisions of this article shall, upon conviction, be punished according to the provisions of section 1-7.
- (b) Suit may be instituted in the superior court in the name of the town to restrain any violation of, or compel compliance with, this article.
- (c) The Town Council shall have the authority, following adequate notice to the licenseholder and a hearing, to revoke any license obtained under provisions of this article for violations of any provisions of this article.

**Sec. 38-58. Hours of operation.** All such earth removal operations shall be carried on only between the hours of 7:30 a.m. and 6:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday, except a legal holiday. Operations shall not be carried on at any other hours, nor on Sunday, nor on a legal holiday except upon issuance of a special exception from the Town Council.

**Sec. 38-59. Setback requirements.** The initiation or lateral expansion of earth removal is prohibited within a distance of:

- (1) Twenty-five feet of the boundary of the tract of land upon which earth removal is to be carried on adjacent to residential property; or
- (2) Within 50 feet of any dwelling, whichever is greater.

**Sec. 38-60. Fencing requirements.** Fencing is required around those portions of the boundary of the tract of land upon which earth removal is being conducted adjacent to developed residential property. Such fencing shall be five feet in height and shall be effective to control access to the area in which such earth removal is being conducted.

**Sec. 38-61. Dust control.** Calcium chloride or oil shall be applied to nonpaved roads to be used for vehicular ingress or egress to such tract of land and to the regularly traveled roads within such tract of land on which earth removal is to be conducted.

**Sec. 38-62. Drainage.** Drainage shall be provided on tracts of land on which earth removal is to be conducted to prevent the permanent collection and stagnation of surface or underground waters, and to prevent the flooding and erosion of surrounding property.

**Sec. 38-63. Property previously obtained for earth removal purposes.** Real property acquired or leased prior to the effective date of the enabling act for the purpose of earth removal and held for such purpose on January 28, 1974, shall be considered in use for earth removal whether or not extracting has been actually commenced, and a license for earth removal on such property shall be issued pursuant to section 38-81 upon compliance with the provisions of sections 38-81 and 38-83. In order for real property to qualify under this article, the following conditions shall be considered as conclusive evidence that such real property was acquired or leased and held for the purpose of later earth removal:

- (1) Such real property was acquired or leased prior to January 28, 1974.
- (2) Such real property was acquired or leased by an individual, corporate or otherwise, engaged at the time of acquisition in the business of earth removal.

(3) Such real property, or the substantial portion of such property has not been permanently developed, for any residential, commercial, other than farm or agricultural, or industrial purpose.

(4) Such real property contains mineral deposits of a demonstrable economic value.

(5) If the owner or lessee of any such tract of land shall file in the office of the town clerk, as the case may be, on or before April 1, 1974, a statement setting forth his intention to engage in earth removal on such tract of land and describing such tract of land, then such tract of land shall be deemed to qualify under this section, and, as to any tract of land for which such intention is not so filed, then the provisions of this section shall have no force and effect.

**Sec. 38-64. Town operations to comply with article .**If the town shall engage in earth removal for municipal purposes, it shall comply with the provisions of this article.

**Sec. 38-65. Operations already in existence.** This article shall apply to earth removal being conducted on the date of its enactment on any tract of land within the town 60 days after enactment. Upon submission to the building inspector of the plan and all other material as required under section 38-83, except that no such plan need set forth existing contours for that portion of any tract of land on which earth removal has been completed on January 28, 1974, the building inspector shall forthwith issue a license for the continuance of earth removal on any such tract of land.

**Sec. 38-66. Exceptions.** Upon application and after a showing that the literal enforcement of the article will work a hardship, the Town Council may grant an exception to the terms of this article upon a finding that such exception will not result in a substantial negative effect on surrounding property.

**Sec. 38-67. Appeals.** Appeals from the decisions of the Town Council shall be taken in the same manner as other appeals from the Town Council sitting as a licensing board.

**Secs. 38-68--38-80. Reserved.**

## **DIVISION 2. LICENSE**

**Sec. 38-81. Required fee.** A condition precedent to any earth removal shall be the obtainment of a license to be issued by the Town Council upon the submission of the documents required by section 38-83 and its approval of such section, and the payment of the currently required license fee.

**Sec. 38-82. Issuance.** The Town Council of the town may issue licenses. Such permission shall be restricted and exercised in accordance with this article, and Appendix A (the Zoning Ordinance) which makes earth removal a prohibited use.

**Sec. 38-83. Submissions required precedent to issuance.** An applicant for a license under this Chapter shall submit an application to the Town Council in a form adopted by the Town Clerk and provided by the Town Clerk.

Except as otherwise provided in this section, as a condition precedent to the acceptance of an application by the Town Council for earth removal, there shall be submitted to the Town Clerk:

(1) A plan prepared by a registered engineer in compliance with the provisions of this article and setting forth the existing contours of the tract of land, based upon classifications of preliminary samples of the material to be removed, including:

a. The final contours of the tract of land upon completion of earth removal operations; and

b. The type of ground cover to be planted or applied upon completion of earth removal operations to effectively control wind and water erosion;

provided, however, that if there is suitable fertile ground cover existing at the beginning of earth removal, enough of such ground cover shall be held in reserve and reapplied for a minimum thickness of three inches.

(2) An opinion by a registered engineer that upon completion of earth removal operations all slopes on such tract as set forth in the plan referred to in subsection (1) of this section, shall remain at the natural angle of repose.

(3) A bond in an amount sufficient to insure restoration of such tract of land and to insure compliance with the requirements of this section. The calculations for such bond shall be reviewed and approved by the Town's engineer.

If the plan set forth in subsection (1) of this section is not complied with, the town may undertake and complete such plan, the owner of such tract of land shall reimburse the town for its necessary expenses in connection therewith, and the town shall have a lien on such tract of land for such expenses and may collect on the aforementioned bond.

The plan, required by subsection (1), shall be forwarded to the Zoning Enforcement Officer and to the Planning Board for an advisory opinion. The advisory opinions shall accompany an application to the Town Council for a license.

~~Secs. 38-854--38-100.~~ Reserved.

**APPOINTMENTS & RESIGNATIONS:**

**Street Committee – Re-Appointment of Rosemary Eva to Street Committee**

Councilor Durfee made a motion, seconded by Councilor Arruda to re-appoint Rosemary Eva to the Street Committee. Motion passed unanimously.

**Councilor Roderick recused himself because he lives there**

**BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:**

The Town Council was sitting as the Board of Licensing Commissioners:

**Annual Renewal of Countryview Estates LLC License – Continued From November 23, 2009**

**Council Meeting**

**a. Memorandum From Solicitor**

Town Clerk Nancy Mello passed out a letter received in late afternoon, from Attorney Jerry Leary, representing Countryview Estates, LLC. Councilor Durfee, in review of the letter, noted the client will complete paving and by May 30<sup>th</sup> and does not intend to assess unit owners for cost. Currently the date of the license is valid through June 30<sup>th</sup>, the Council could put this on again in June, which would give time to have the work completed and as the Solicitor suggested in his memo, give a temporary license.

Councilor Durfee made a motion, seconded by Councilor Leonard to grant a temporary license until June 14, 2010. Motion passed unanimously.

Councilor Roderick returned to the Council table at this time.

**FINANCIAL BUSINESS:**

**Councilor Leonard – Request Status of Tiverton Police Pension Fund and copy of Latest Actuary Report.**

**Presentation on Status of Tiverton Police Pension Fund by William F. Greene, Bank of America-Merrill Lynch**

Councilor Leonard requested the status of the Police Pension Fund to see if it was under funded and for the Council's consideration on how to address. The fund hasn't done as well; the actuary assigns a 7% return on investment that may not be realistic. William Greene, from Bank of America, gave a brief presentation on the status of the fund. Going forward, Mr. Greene, expected the economy to have some sort of recovery especially in the private sector. A 7% annualized return is possible but not guaranteed. Councilor Durfee questioned the valuation of the assets as of 7/1/09 at \$5.7 million, the market value and the actual composition of the portfolio. Mr. Greene noted the composition was 65% equities, 30% fixed income, 5% cash equivalents. Councilor Durfee noted the performance of the fund should be measured against indexes. Mr. Greene stated monthly and quarterly reports are given to the Treasurer and the Administrator. Councilor Durfee noted the Council should be getting this report on a regular basis.

Councilor Durfee asked for a breakdown on the equities, what percent was international? The fund manager needs to make sure the Town's return is maximized. The breakdown on fees was questioned in addition to the meetings being subject to the Open Meeting Law. According to Solicitor Teitz, these meetings were subject to the Open Meetings, with some exceptions for Executive Session. In general this board is a public body, needs to give notice of meetings and make a report available for inspection.

Councilor Bollin stated board hasn't met in over a year. Administrator Steckman used to meet monthly to stay on top of fund management. There is a need to meet regularly.

**UNFINISHED BUSINESS:**

**Resolution establishing Municipal Building Feasibility Advisory Committee**

Council President Bollin read the resolution establishing a Municipal Building Feasibility Advisory Committee. Solicitor Teitz as directed at the last meeting drafted a resolution and combined this with a draft submitted by Laura Epke. The Council discussed whether to include the Police and Fire Stations and whether to allow a two-year limit. Councilors Durfee and Bollin thought the Police and Fire Stations should be excluded; need to be looked at separately. President Bollin wanted to make sure the Dept. of Public Works would still be included. The committee should not be limited to town residents since it is not a Charter based committee.

Councilor Durfee made a motion, seconded by Councilor Leonard to adopt the resolution excluding the Polices and Fire Stations. Solicitor Teitz further suggested the wording could state ***the committee can cease to exist 6/30/2012.*** Motion passed unanimously

The resolution including the suggested changes was as follows:

**Town of Tiverton Resolution Establishing The Municipal Building Feasibility Advisory Committee**

**WHEREAS**, the Tiverton School Committee has determined that it no longer requires the use of two elementary schools, Nonquit School and Old Ranger School (the "Former Schools"), and has returned these schools to the Town, and the Town does not have any previously planned use for the Former Schools; and

**WHEREAS** The Tiverton Town Council must: a) determine a future use of one or both of said two (2) Elementary Schools that can be supported financially and that will complement existing municipal buildings, or; b) propose disposition of one or both of said two (2) Former Schools to the electors of Tiverton; and

**WHEREAS** The Tiverton Town Council acknowledges that in order to make such a decision, a study of the current use and structural status of all municipal buildings, including the Former Schools, must be conducted and a set of recommendations be prepared for the Town Council to act upon; and

**WHEREAS** The Tiverton Town Council recognizes that a decision must be made as soon as possible, but that at least one year is likely required to complete such a study and prepare recommendations; and

**IT IS HEREBY RESOLVED**, by the Town Council of Tiverton that the Municipal Building Feasibility Advisory Committee ("Committee") is hereby established and organized as follows:

1. Purpose

The Municipal Facilities Committee shall conduct a study of the current use and structural status of all of Tiverton's municipally owned buildings including, without limitation, the Judson Street Community Center (itself previously a school), Senior Center, Town Hall, and DPW facility, and present a set of recommendations to the Town Council before the 2011 Financial Town Meeting, for the future use of, or disposition of, each municipal building belonging to the Town of Tiverton. In carrying out its purpose, the Committee shall:

- a. Study and document the structural status of each Municipal Facility;
- b. Seek in-kind donations from professional or educational organizations and/or public/private grants to facilitate as comprehensive a study as possible;
- c. Examine existing uses and planned uses for Municipal Facilities as outlined in the Town's capital plan;
- d. Research and document any use restrictions dictated by zoning regulations, public accessibility requirements and proximity to reservoirs or historical/cultural resources;
- e. Solicit input and ideas from Town Professionals, Town Committees and the general public for possible future use or disposition of Municipal Facilities; and
- f. Prepare recommendations for the use, or disposition, of each Municipal Facility that can be sustained financially by the Town and that will serve the future needs of the Town.

2. Membership

The membership of the Committee shall be composed of:

- a. Five members to be appointed by the Town Council from the public, for 2-year terms. The Town Council shall appoint a Chair. The Committee shall elect a Vice-Chair and a Secretary from among its membership.
  - b. The Town Administrator (ex-officio).
  - c. One Member of the Town Council, appointed by the Town Council (ex-officio).
3. The Committee shall meet at the call of the Chair or Vice-Chair, or upon the written request of any three members. It shall be deemed a public body and subject to all requirements of the Open Meetings Act and the Access to Public Records Act.
4. The Committee shall report at least quarterly to the Town Council, setting forth its achievements, projects and goals.
5. The Committee shall cease to exist on June 30, 2012.

Adopted by the Town Council on the \_\_\_\_ day of January 2010. Nancy Mello, Town Clerk

**NEW BUSINESS:**

**Town Administrator - Request Budget Workshop with Town Council on Tuesday, January 19 to Review FY 2010-2011 Budget With Invitation to (4) Legislators For Discuss Governor's Supplemental Budget**

Councilor Durfee made a motion, seconded by Councilor Leonard to schedule a workshop on Tuesday January 19, 2010 for a budget workshop and to discuss with the legislators the Governor's supplemental budget. Motion passed unanimously.

**Town Administrator – Request Public Hearing for the Tax Stabilization Ordinance Revision**

President Bollin questioned the benefits and the comparison to the Enterprise Zone and how it fits to Tiverton. Town Planner Christopher Spencer noted the re-designation of the Enterprise Zone was for five years, having to do with employment and state income taxes.

Councilor Durfee made a motion, seconded by Councilor Costa to set a Public Hearing for the Tax Stabilization Ordinance Revision on February 22, 2010. Motion passed unanimously

**TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

1. Second week of Christmas tree pick up. Remove ornaments, tinsel, do not put in a bag.
2. Today, last day of 3<sup>rd</sup> quarter without penalty. .53% ahead of L/Y or \$126,000.  
Councilor Durfee requested the tax collection reports be given in writing. Administrator in agreement.
3. The library has a list of articles for sale in the display case.
4. H1N1 clinic done by the EMA on Sat. January 23<sup>rd</sup> from 10am to 2pm at the Middle School. Must be 18 years or over, free to anyone, no ID, required to sign consent form.
5. Year to date \$90,000 in abatements.
6. Thanked the IBPO for the \$4,000 food donation that the East Bay Community Action Center provided for 150 families in need.
7. Recycling tonnage for last quarter increased by 52 tons. Averaging 10 tons more per month.
8. Final appraisal for Ranger at \$970,000 and Nonquit at \$850,000. Rental info, copy to Clerk and committee

**COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

**Councilor Roderick – Request for Report on Investments From Town Treasurer**

Councilor Roderick had requested reports from the Treasurer on investment accounts at the November 9<sup>th</sup> meeting. At the time the Treasurer, Philip DiMattia, stated there would be no problem providing reports. Again on November 23<sup>rd</sup> Councilor Roderick asked for a report for the first Council meeting in January. Councilor Roderick was very disappointed the Council has not received this report. Felt the Council was being disrespected. The Town Clerk, at this time, was requested to read a letter from the Treasurer received in late afternoon on Monday, January 11<sup>th</sup>. The letter was as follows:

*Dear Nancy and Town Council Members:*

*I want to advise you, that I wish to be placed on the February 22, 2010 Tiverton Town Council Meeting Agenda, to discuss Town Financial Strategies and Investment Activities.*

*On Tuesday, January 5, 2010 at 3:00 PM Nancy Mello visited my office to indicate that Councilor Roderick had put me on the Town Council Meeting Agenda for Monday, January 11, 2010 to report on Town investments. I asked her to e-mail Councilor Roderick that I was busy with many year-end activities and the audit and could not report on investments at this time. I told Nancy to remove me from the Agenda and that I would make a report on investments at a Town Council Meeting in February 2010. Nancy sent an e-mail to Councilor Roderick and informed him of the above.*

*Councilor Roderick put me on the Town Council Meeting Agenda without notifying me and without my authorization. This is the second time that Councilor Roderick has done this!*

*As the Town Treasurer and an elected official of the Town of Tiverton, I want to advise all Town Council Members and the Town Clerk that my policy in regards to being placed on the Town Council Meeting Agenda is that I require a courtesy call to obtain my approval and authorization before being placed on the Town Council Meeting Agenda.*

*Out of courtesy, I called Councilor Roderick on Friday, January 8, 2010, and left a message asking him to return my phone call to discuss his request for a report on Town investments that he wanted me to present at the Town Council Meeting on Monday, January 11, 2010. I wanted to explain to him that I was too busy at this time to make a presentation on Town investments, due to year-end activities (W2s, 1099s, etc.), the completion and submission of the Financial Annual Report for 2009 to the State Auditor General, the writing of the Management Comments for the Financial Report and the implementation of a new computer software system for payroll. Also I am currently working with Councilors Leonard and Lambert on a Landfill Investment Portfolio. Councilor Roderick never returned my phone call, even though I left my office number and home phone number.*

*Nancy, please advise Councilor Roderick to e-mail me directly with any questions that he has on Town investments on or before February 1, 2010, so that I might respond to his questions in my presentation at the Town Council Meeting on February 22, 2010. Councilor Leonard is well aware of the significant number of accounts the Town has under its EIN#. He may be able to assist Councilor Roderick in defining his questions on investment activities in more detail.*

*Philip A. DiMattia, MBA, M. Ed.  
Tiverton Town Treasurer*

The Treasurer was not in attendance at the Council meeting. Councilor Roderick respectfully asked the Treasurer 3-4 months ago for a report. This cannot be tolerated; residents have a right to know. The Town Clerk informed the Treasurer she could not remove any Council requests. Councilor Durfee stated the number of accounts is not a huge number and not to have an answer at this time is confounding. The Council has yet to receive revenue and budgets reports since October. Shares Councilor Roderick's view, the W2's and 1099's are provided by the payroll company. Should address the Treasurer, he's elected and serves the people of the Town.

Councilor Lambert didn't know if the Treasurer was too busy, didn't know his work, taking at face value he was too busy to attend, didn't know if the Treasurer had an obligation to respond to Councilor Roderick's request. Councilor Roderick stated this was a request for information. Council President Bollin noted the Treasurer could have prepared a report, failing to provide the Council with data; the Council has a right to ask for that information. In one week, there is a workshop on the budget, would be a good idea to know.

Councilor Roderick found the letter very offensive. President Bollin also found the letter offensive. Reading further down into the letter suggests Councilor Leonard answer for the Treasurer regarding investments. Councilor Arruda noted the Treasurer's position had been part time, the Council worked with the Treasurer, this flies in the face of disrespect. The request for information has been there since November. Councilor Durfee noted, under the Charter, the Council has the right to investigate matters under governance.

President Bollin noted the response from Treasurer DiMattia was read into the record. The reports the Council requested should be provided as soon as possible. The Council had to wait until after June of last year for some other reports that were requested at that time. Councilor Lambert suggested he personally call the Treasurer while President Bollin disagreed. President Bollin expected a report, when asking employees, elected or not, simple requests, should be able to get someone on his staff to help.



Councilor Leonard noted for the record the Treasurer is a separate elected official who works for all of us. Took exception to the Treasurer stating he and Councilor Lambert are working with him on investments, He reviewed information on investments of the Landfill accounts with Councilor Lambert in his role as Council liaison for landfill committee. Secondly, surprised at the last two sentences suggesting he assist Councilor Roderick on investment activities in more detail. Councilor Costa also noted elected officials do have a certain amount of independence. The Council has oversight responsibilities to go into any area. Councilor Durfee called for revenue and expense reports from the Treasurer as soon as possible.

Councilor Roderick suggested the Council put a request in writing to the Treasurer.

Councilor Durfee made a motion the Town Clerk be requested to make sure the Council has revenue and expense reports for the workshop on January 19<sup>th</sup>. Councilor Roderick seconded the motion. Motion passed 6-1. Councilor Leonard was opposed, felt the Treasurer was not refusing to provide information and that Council was parsing things too much with this over reaction motion. .

**TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS;**  
**Reports From Robert L. Hoffman, Hoffman Engineering, Inc. Relative to Bay Street Remediation**  
**Weekly Meetings**

**a. Report Week of December 8<sup>th</sup> through January 4, 2010**

**b. Report Week of January 5, 2010**

Solicitor Teitz noted the Council has received reports before, now requesting Bob Hoffman's reports be made public, making them more aware of the overseeing and persuasion efforts for better clean up. Hoffman Engineering fees are being paid from the \$550,000 Town's portion of settlement.

Regarding Weaver's Cove, the Solicitor and Jeannie Scott recently attended a Save the Bay meeting, which brought groups together. Working with the Attorney General and other solicitors along the East Bay, other communities filed appeals, will work in concert to reduce legal costs.

**CLOSED EXECUTIVE SESSION:**

**1. Town Solicitor - Litigation – 42-46-5(a) (2)**

**2. Town Administrator – 42-46-5(a)(2) - Collective Bargaining-Teamsters, IAFF& IBPO**

**3. Town Administrator – 42-46-5(a)(6) - Prospective Business or Industry**

Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to remain in Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining-Teamsters, IAFF & IBPO. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to remain therein in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:40 p.m.

The Council returned to Open Session at approximately 10:35 p.m.

**OPEN SESSION:**

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Durfee motioned to seal the minutes of Executive Session, seconded by Councilor Leonard. Motion passed unanimously.

**ADJOURNMENT:**

Councilor Durfee motioned to adjourn, seconded by Councilor Leonard. Motion passed unanimously.

Council adjourned at approximately 10:40 p.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk